

FILED
U. S. DISTRICT COURT
DISTRICT OF NEBRASKA

2011 OCT 12 PM 12: 20

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

LEROY O. CARLSON

TERESA J. CARLSON

P.O. Box 1221

Norfolk, Nebraska 68702

Plaintiffs

Case No: 4:11 cv 3173

vs

CREDIT MANAGEMENT SERVICES INC.

DANA KAY FRIES #22411 personally,

JANE J. RICHARDSON #19833 personally,

TESSA P. HERMANSON #23179 personally,

JESSICA L.V. PISKOWSKI #24243 personally,

BRADY W. KEITH #24305 personally,

P.O. Box 1512

Grand Island, Nebraska 68802

Defendants

Trial by Jury Demanded

COMPLAINT

Plaintiffs LeRoy O. Carlson and Teresa J. Carlson, individually, hereby sues

Defendants, CREDIT MANAGEMENT SERVICES INC., Dona K. Fries, Jane J. Richardson, Tessa P. Hermanson, Jessica L. V. Piskowski, and Brady W. Keith for violation of the Fair Debt Collection Practices Act (FDCPA) 15 U.S.C. § 1692 and Nebraska Collection Agency Act § 45-601; § 45-1047 Licensee; action; permitted; prohibited.

PRELIMINARY STATEMENT

1. This is an action for statutory damages and actual damages brought by Plaintiffs against Defendants for violations of the Fair Debt Collection Practices Act (FDCPA) 15 U.S.C. § 1692(e), Fair Debt Collection Practices Act (FDCPA) 15 U.S.C. § 1692(e)(2), Fair Debt Collection Practices Act (FDCPA) § 1692(e)(5), Fair Debt Collection Practices Act (FDCPA) § 1692(e)(8), Fair Debt Collection Practices Act (FDCPA) 15 U.S.C. § 1692(e)(10), Fair Debt Collection Practices Act (FDCPA) 15 U.S.C. § 1692f(1), Fair Debt Collection Practices Act (FDCPA) 15 U.S.C. § 1692(g)(B), and the Nebraska Collection Agency Act, § 45-601, § 45-1047(2)(d), § 45-1047(2)(g), § 45-1047(2)(i), § 45-1058.

Plaintiffs contend that the Defendants have violated such laws by repeatedly harassing Plaintiffs in attempts to collect alleged but nonexistent debt.

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 15 U.S.C. § 1681p, Nebraska § 45-601 Collection Agency Act, and Nebraska § 45-1058; Borrower; right to action; judgment; effect, and supplemental jurisdiction exists for the state law claims pursuant to 28 U.S.C. § 1367. Venue is proper pursuant to 29 U.S.C. § 1391b.

judgment; effect, and supplemental jurisdiction exists for the state law claims pursuant to 28 U.S.C. §1367. Venue is proper pursuant to 29 U.S.C. § 1391b. Plaintiffs reside here, the Defendants transact business here, and the conduct complained of occurred here.

3. This is an action for damages which exceed \$5,000.00.

PARTIES

4. The Plaintiffs in this lawsuit LeRoy O. Carlson and Teresa J. Carlson, are natural persons, and are residents of the State of Nebraska.

5. Defendant CREDIT MANAGEMENT SERVICES INC. is a corporation licensed to do business in the State of Nebraska

6. Defendants Dana K. Fries, Jane J. Richardson, Tessa P. Hermanson, Jessica L.V. Piskowski, and Brady W. Keith are all natural persons and reside in the State of Nebraska

FACTUAL ALLEGATIONS

7. On or about November 24, 2010 the Plaintiffs received five (5) separate letters from Defendants stating your past due account has been referred to us for collection. Failure to pay may result in further collection efforts. On December 15, 2010 Plaintiffs mailed to Defendants, by Certified mail # 7009-2250-0000-2374-1109 and received and signed for by Betty Ilers on December 16, 2010, a Notorized letter in which Plaintiffs disputed the alledged debt and to validate the alledged debt. Defendants failed to validate the alledged debt or any agreement or provide any evidence that Plaintiffs had an account with CREDIT MANAGEMENT SERVICES INC. or any of the Defendants.

Count I

VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT (FDCPA) 15 U.S.C. §1692.

8. Paragraphs 1 through 7 are realleged as though fully set forth herein.
9. Plaintiffs are consumers within the meaning of the FDCPA, 15 U.S.C. § 1692a(3).
10. Defendant CREDIT MANAGEMENT SERVICES INC. is a debt collector within the meaning of FDCPA 15 U.S.C. § 1692a(6).
11. Defendants Dana K. Fries, Jane J. Richardson, Tessa P. Hermanson, Jessica L.V. Piskowski, and Brady W. Keith are debt collectors within the meaning of FDCPA U.S.C. § 1692a(6).
12. All Defendants violated the Fair Debt collection Practices Act FDCPA. Violations include, but are not limited to, the following.
13. Defendants violated 15 U.S.C. § 1692e(2) by falsely representing the character, amount, or legal status of any debt.
14. Defendants violated 15 U.S.C. § 1692e(5) by threatening to take any action that cannot legally be taken or that is not intended to be taken.
15. Defendants violated 15 U.S.C. § 1692e(8) by threatens or communicates false credit information, including the failure to communicate that a debt is disputed.
16. Defendants violated 15 U.S.C. § 1692e(10) by making any false representation or deceptive means to collect a debt or obtain information about a consumer.
17. Defendants violated 15 U.S.C. § 1692f by using any unfair or unconscionable means to collect or attempt to collect the alledged debt.
18. Defendants violated 15 U.S.C. § 1692f(1) by the collection of any amount (including any interest, fee, charge, or expense incidental to the principle obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.

19. Defendants violated 15 U.S.C. § 1692g(B) by continuing collection activity after receiving notice of dispute, and failed to provide written validation of debt before resuming collection activities.

WHEREFORE, Plaintiffs demand judgment against each and every Defendant for statutory damages and actual damages and costs pursuant to the Fair Debt Collection Practices Act 15 U.S.C. §1692 and Nebraska Statutes §45-601, § 45-1047, and § 45-1058.

COUNT II

VIOLATIONS OF THE NEBRASKA COLLECTION AGENCY ACT; § 45-601, § 45-1047, AND 45-1058.

20. Paragraphs 1 thru 19 are alleged as though fully set forth herein.

21. Plaintiffs are consumers within the meaning of Nebraska § 45-1055(1).

22. CREDIT MANAGEMENT SERVICES INC. is a debt collector within the meaning of § 45-602(2)(a)

23. Dana K. Fries, Jane J. Richardson, Tessa P. Hermanson, Jessica L.V. Piskowski, and Brady W. Keith are debt collectors within the meaning of § 45-602(2)(a).

24. All Defendants violated § 45-1047(2)(d) by claiming, attempting or threatening to enforce a debt when such persons knew that the debt was not legitimate.

25. All Defendants violated § 45-1047(2)(g) by threatening to take any action that the licensee knows cannot legally be taken at the time the threat was made.

26. All Defendants violated § 45-1047(2)(i) by communicating or threaten to communicate to any person credit information which is known to be false.

WHEREFORE, Plaintiffs demand judgment for damages against each and every Defendant for actual and statutory damages and costs pursuant to Nebraska Collection Agency Act § 45-

601, § 45-1047, Licensee; actions; permitted; prohibited, and § 45-1058, Violations; loan transaction; licensee; liability.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury of all issues so triable as a matter of law.

Respectfully submitted this 7 day of October, 2011

A handwritten signature in cursive script, appearing to read "LeRoy O. Carlson", written over a horizontal line.

LeRoy O. Carlson

P.O. Box 1221

Norfolk, Nebraska 68702

A handwritten signature in cursive script, appearing to read "Teresa J. Carlson", written over a horizontal line.

Teresa J. Carlson

P.O. Box 1221

Norfolk, Nebraska 68702

HEROY CARLSEN

P.O. BOX 1221

NORFOLK, NEBRASKA

68702

U.S. POSTAGE
PAID
NORFOLK, NE
68701
OCT 11, 11
AMOUNT
\$1.08
00044586-04



1000
68508

U.S. DISTRICT COURT OF NEBRASKA - LINCOLN
593 FEDERAL BUILDING
100 CENTENNIAL MALL NORTH
LINCOLN, NE. 68508-3803

RECEIVED

OCT 12 2011

CLERK
U.S. DISTRICT COURT
LINCOLN